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PTO/SB/64 (10-05)

Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

040003

First named inventor: David F. Zhou

Application No.: 10/766,135

Art Unit: 3736

Filed: 01/27/2004

Examiner: Szmaj, Brian Scott

Title: SPECIMEN COLLECTION AND STORAGE AND TRANSPORT DEVICE AND METHOD

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

02/22/2006 SFELEKE2 00000004 10766135

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NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☒ Small entity-fee \$ 750.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in
the form of _____ (identify type of reply):

- ☐ has been filed previously on _____
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ 1030.00

- ☐ has been paid previously on _____
☒ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

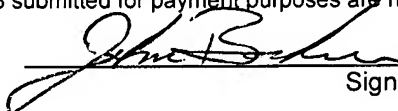
☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.


Signature

16 FEB 2006
Date

John D. Buchaca

Typed or printed name

37,289

Registration Number, if applicable

1545 Hotel Circle South, Suite 150

Address

619-294-2922

Telephone Number

San Diego, CA 92108

Address

Enclosures: ☒ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☒ Other: Issue fee transmittal

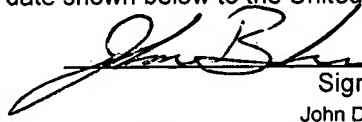
CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

16 FEB 2006
Date


Signature

John D. Buchaca

Typed or printed name of person signing certificate



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Washington D.C. 20231

application of:)
DAVID F. ZHOU) Examiner: Brian Scott Szmal
Serial No.: 10/766,135) Art Unit: 3736
Filed: January 27, 2004)
For: SPECIMEN COLLECTION AND)
STORAGE AND TRANSPORT)
DEVICE AND METHOD)

**DECLARATION OF JOHN D. BUCHACA
IN SUPPORT OF UNINTENTIONAL DELAY**

I am the attorney of record in the above-application. Our firm has been located at our present mailing address for well over ten years. Due to the usually high reliability of the mail during this period, I have come to rely on there being prompt delivery of all correspondence from the U.S. Patent and Trademark Office (hereinafter the "Office"). Indeed, some prior correspondence in the present application, namely the Filing Receipt mailed June 15, 2004; the Decision on Petition mailed August 4, 2004; the Office Action mailed September 17, 2004; and, the Office Action mailed April 19, 2005, all addressed to:

CHARMASSON & BUCHACA & LEACH LLP
1545 HOTEL CIRCLE SOUTH
SUITE 150
SAN DIEGO, CA 92108-3412

were received promptly.

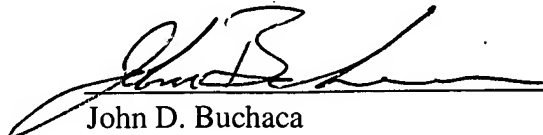
A Notice of Allowance and Fee(s) Due was mailed August 12, 2005 to the above address,

and was to my knowledge never received by my office. Consequently, the required response of payment of these fees did not occur by the deadline of November 12, 2005. A Notice of Abandonment was mailed December 16, 2005 to the above address, and again, to my knowledge not received by my office.

On or about January 4, 2006, I performed a routine check of the status of the present application using the online Private PAIR system provided by the Office, and first became aware of both of the Notices detailed above. I then began preparations for submitting the present Petition. Although under the circumstances I believe the delay in submitting the required response was "unavoidable", the present petition is being filed using the "unintentional" standard in the hope of a rapid grant of the petition and rapid issuance of the patent follows.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: 16 FEB 2006


John D. Buchaca